

AN ACT

ENTITLED, An Act to revise the period of time when certain penalties apply for failing to file or pay certain taxes due.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 10-45-48.1 be amended to read as follows:

10-45-48.1. Any person who:

- (1) Makes any false or fraudulent return in attempting to defeat or evade the tax imposed by this chapter is guilty of a Class 6 felony;
- (2) Fails to pay tax due under this chapter within sixty days from the date the tax becomes due is guilty of a Class 1 misdemeanor;
- (3) Fails to keep the records and books required by § 10-45-45 or refuses to exhibit these records to the secretary of revenue and regulation or his agents for the purpose of examination is guilty of a Class 1 misdemeanor;
- (4) Fails to file a return required by this chapter within sixty days from the date the return is due is guilty of a Class 1 misdemeanor;
- (5) Engages in business as a retailer under this chapter without obtaining a sales tax license is guilty of a Class 1 misdemeanor;
- (6) Engages in business as a retailer under this chapter after his sales tax license has been revoked by the secretary of revenue and regulation is guilty of a Class 6 felony;
- (7) Willfully violates any rule of the secretary of revenue and regulation for the administration and enforcement of the provisions of this chapter is guilty of a Class 1 misdemeanor;
- (8) Violates either subdivision (2) or subdivision (4) two or more times in any twelve-month period is guilty of a Class 6 felony;

- (9) Engages in business as a retailer under this chapter without obtaining a sales tax license after having been notified in writing by the secretary of revenue and regulation that the person is a retailer subject to the provisions of the sales and use tax laws is guilty of a Class 6 felony. It is not a violation of this subdivision if the person engaging in business as a retailer files an application for a sales tax license and meets all lawful prerequisites for obtaining such license within three days from receipt of written notice from the secretary.

For purposes of this section, the term, person, includes corporate officers having control, supervision of or charged with the responsibility for making tax returns or payments pursuant to § 10-45-55.

Section 2. That § 10-45D-14 be amended to read as follows:

10-45D-14. Any person who:

- (1) Makes any false or fraudulent return in attempting to defeat or evade the tax imposed by §§ 10-45D-1 to 10-45D-2, inclusive, is guilty of a Class 6 felony;
- (2) Fails to pay tax due under §§ 10-45D-1 to 10-45D-14, inclusive, within sixty days from the date the tax becomes due is guilty of a Class 1 misdemeanor;
- (3) Fails to keep the records and books required by § 10-45D-13 or refuses to exhibit these records to the secretary of revenue and regulation or the secretary's agents for the purpose of examination is guilty of a Class 1 misdemeanor;
- (4) Fails to file a return required by §§ 10-45D-1 to 10-45D-14, inclusive, within sixty days from the date the return is due is guilty of a Class 1 misdemeanor;
- (5) Willfully violates any rule of the secretary of revenue and regulation for the administration and enforcement of the provisions of §§ 10-45D-1 to 10-45D-14, inclusive, is guilty of a Class 1 misdemeanor; or

- (6) Violates either subdivision (2) or subdivision (4) of this section two or more times in any twelve-month period is guilty of a Class 6 felony.

Section 3. That § 10-46A-13.1 be amended to read as follows:

10-46A-13.1. Any person who:

- (1) Makes any false or fraudulent return in attempting to defeat or evade the tax imposed by this chapter is guilty of a Class 6 felony;
- (2) Fails to pay tax due under this chapter within sixty days from the date the tax becomes due is guilty of a Class 1 misdemeanor;
- (3) Fails to keep the records and books required by § 10-45-45 or refuses to exhibit these records to the secretary of revenue and regulation or his agents for the purpose of examination is guilty of a Class 1 misdemeanor;
- (4) Fails to file a return required by this chapter within sixty days from the date the return is due is guilty of a Class 1 misdemeanor;
- (5) Engages in business under this chapter without obtaining a contractor's excise tax license is guilty of a Class 1 misdemeanor;
- (6) Engages in business under this chapter after his contractor's excise tax license has been revoked by the secretary of revenue and regulation is guilty of a Class 6 felony;
- (7) Violates either subdivision (2) or subdivision (4) of this section two or more times in any twelve-month period is guilty of a Class 6 felony;
- (8) Engages in business under this chapter without obtaining a contractor's excise tax license after having been notified in writing by the secretary of revenue and regulation that the person is a contractor subject to the provisions of the contractors' excise tax laws is guilty of a Class 6 felony. It is not a violation of this subdivision if the person engaging in business files an application for a contractor's excise tax license and meets all lawful

prerequisites for obtaining such license within three days from receipt of written notice from the secretary.

For purposes of this section, the term, person, includes corporate officers having control, supervision of or charged with the responsibility for making tax returns or payments pursuant to § 10-46A-13.

Section 4. That § 10-46B-11.1 be amended to read as follows:

10-46B-11.1. Any person who:

- (1) Makes any false or fraudulent return in attempting to defeat or evade the tax imposed by this chapter is guilty of a Class 6 felony;
- (2) Fails to pay tax due under this chapter within sixty days from the date the tax becomes due is guilty of a Class 1 misdemeanor;
- (3) Fails to keep the records and books required by § 10-45-45 or refuses to exhibit these records to the secretary of revenue and regulation or his agents for the purpose of examination is guilty of a Class 1 misdemeanor;
- (4) Fails to file a return required by this chapter within sixty days from the date the return is due is guilty of a Class 1 misdemeanor;
- (5) Engages in business under this chapter without obtaining a contractor's excise tax license is guilty of a Class 1 misdemeanor;
- (6) Engages in business under this chapter after his contractor's excise tax license has been revoked by the secretary of revenue and regulation is guilty of a Class 6 felony;
- (7) Violates either subdivision (2) or subdivision (4) two or more times in any twelve-month period is guilty of a Class 6 felony;
- (8) Engages in business under this chapter without obtaining a contractor's excise tax license after having been notified in writing by the secretary of revenue and regulation that the

person is a contractor subject to the provisions of the contractors' excise tax laws is guilty of a Class 6 felony. It is not a violation of this subdivision if the person engaging in business files an application for a contractor's excise tax license and meets all lawful prerequisites for obtaining such license within three days from receipt of written notice from the secretary.

For purposes of this section, the term, person, includes corporate officers having control, supervision of or charged with the responsibility for making tax returns or payments pursuant to § 10-46B-11.

Section 5. That § 10-52A-8 be amended to read as follows:

10-52A-8. Any person who:

- (1) Makes any false or fraudulent return in attempting to defeat or evade the tax imposed by this chapter is guilty of a Class 6 felony;
- (2) Fails to pay tax due under this chapter within sixty days from the date the tax becomes due is guilty of a Class 1 misdemeanor;
- (3) Fails to keep the records and books required by § 10-52A-9 or refuses to exhibit these records to the secretary of revenue or the secretary's agents for the purpose of examination is guilty of a Class 1 misdemeanor;
- (4) Fails to file a return required by this chapter within sixty days from the date the return is due is guilty of a Class 1 misdemeanor;
- (5) Willfully violates any rule of the secretary of revenue and regulation for the administration and enforcement of the provisions of this chapter is guilty of a Class 1 misdemeanor; or
- (6) Violates either subdivision (2) or subdivision (4) two or more times in any twelve-month period is guilty of a Class 6 felony.

Section 6. That § 10-33A-17 be amended to read as follows:

10-33A-17. Any person who:

- (1) Makes any false or fraudulent return in attempting to defeat or evade the telecommunications gross receipts tax is guilty of a Class 6 felony;
- (2) Fails to pay the telecommunications gross receipts tax due under this chapter within sixty days from the date the tax becomes due is guilty of a Class 1 misdemeanor;
- (3) Fails to keep the records required by this chapter or refuses to exhibit these records to the department for the purpose of examination is guilty of a Class 1 misdemeanor;
- (4) Fails to file a return required by this chapter within sixty days from the date the return is due is guilty of a Class 1 misdemeanor;
- (5) Engages in business as a telecommunications company under this chapter without obtaining a telecommunications gross receipts tax license is guilty of a Class 1 misdemeanor;
- (6) Engages in business as a telecommunications company under this chapter after the company's telecommunications gross receipts tax license has been revoked or canceled by the secretary is guilty of a Class 6 felony;
- (7) Willfully violates any rule of the secretary for the administration and enforcement of the provisions of this chapter is guilty of a Class 1 misdemeanor;
- (8) Violates either subdivision (2) or subdivision (4) of this section two or more times in any twelve-month period is guilty of a Class 6 felony; or
- (9) Engages in business as a telecommunications company under this chapter without obtaining a telecommunications gross receipts tax license after having been notified in writing by the secretary that the telecommunications company is subject to the provisions of this chapter is guilty of a Class 6 felony. However, it is not a violation of this

subdivision if the telecommunications company providing any telecommunications service files an application for a telecommunications gross receipts tax license and meets all lawful prerequisites for obtaining such license within three days from receipt of written notice from the secretary.

For purposes of this section, the term, telecommunications company, includes corporate officers having control, supervision of, or charged with the responsibility for making tax returns or payments pursuant to this chapter.

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I certify that the attached Act
originated in the

SENATE as Bill No. 170

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 170
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
=====

The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor
=====

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State